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December 13, 2001

By Hand

Mary Cottrell, Secretary
Department of Telecommunications and Energy
Commonwealth of Massachusetts
One South Station
Boston, MA 02110

Re: D.T.E. 01-20 - UNE Rates – Discovery Request ATT-VZ 4-29

Dear Secretary Cottrell:

Yesterday at about 5:15 p.m. we received by e-mail Verizon's supplemental comments in support of, among other things, Verizon's attempt to prevent CLEC witnesses and subject matter experts from being able to review or analyze Verizon's response to ATT-VZ 4-29. I write on behalf of AT&T with a brief response to Verizon's supplemental comments.

Verizon uses access line growth forecasts in its cost model. Question ATT-VZ 4-29 asked Verizon to produce copies of any other line forecasts used by Verizon, because that additional information could shed light on the credibility of the separate forecasts created by Verizon solely for use in its cost model. On October 18, 2001, the Department ordered Verizon to provide the information requested in ATT-VZ 4-29. The Department stated that it granted AT&T's motion to compel a response to "to ensure [that] Verizon's supplemental answers are fully responsive and avoid any further motions to compel."

Verizon's additional arguments regarding why it should be able to keep this discovery response hidden from AT&T's witnesses and subject matter experts are without merit.

First, Verizon argues that AT&T has no real need of the information, because the access line forecast that Verizon is trying to hide was not used in its cost model. (Verizon's Supplemental Comments at 5-6.) This argument is nothing more than an improper attempt to seek reconsideration of the Department's October 18 order. AT&T is entitled to this information, as the very differences between the line forecast being withheld by Verizon and the separate line forecast used in its cost study may be relevant to any evaluation of Verizon's cost model. Though Verizon asserts that "changes in the forecast growth rate has [sic] only a small impact on the results of the model" (*id.* at 6), AT&T is entitled to review the data being withheld by Verizon and evaluate this assertion for itself. Verizon has been ordered to produce this information, and it is too late for Verizon to raise arguments regarding the relevance of the information.

Second, Verizon asserts that "[t]he potential harm to Verizon MA would be substantial, since competitors would be planning their marketing strategies with the knowledge of the assumptions regarding access lines contained in Verizon MA's Business Plan." This assertion is false, and without any foundation. None of the individuals who need to review this outstanding discovery response have any involvement whatsoever in planning AT&T's marketing strategies. The witnesses who must analyze this information to determine whether it is consistent with the forecast assumptions upon which Verizon has based its cost study are outside consultants retained to work on UNE cost studies. Verizon has been given copies of the protective agreements signed by each one of AT&T's witnesses and subject matter experts in this proceeding. Tellingly, Verizon is unable to identify a single person among that group who has anything whatsoever to do with "planning [AT&T's] marketing strategies.

Third, AT&T's witnesses and subject matter experts have signed a protective agreement that bars them from using Confidential Information produced in this proceeding "for any purpose other than the purposes of preparation for and conduct of this proceeding." AT&T has provided thousands of pages of competitively sensitive information based on similar assurances. Verizon asserts that its response to ATT-VZ 4-29 "is qualitatively different from information previously provided because it contains details … which, if disclosed to CLEC personnel or consultants, would cause significant competitive harm to Verizon MA" (*id.* at 4-5). But that in no way distinguishes this information. ***All*** of the confidential information produced in this proceeding "would cause significant competitive harm" if misused by opposing parties; otherwise it would not be deemed confidential and given protective treatment. There is nothing unique or even unusual about Verizon's concerns that its response to ATT-VZ 4-29 is competitively sensitive. That response should be treated the same way as all other confidential information that AT&T and others have produced in this docket, and shared with witnesses, subject matter experts, and counsel who have entered into the agreed-upon protective agreements.

Finally, I wish to reiterate my concern that it is now December 13, 2001, and we still have not received this information from Verizon. Verizon was ordered to produce this information by the Department on October 18, 2001. After repeated delays in production, Verizon was finally directed at a scheduling conference to complete all outstanding discovery no later than November 26, 2001, so that CLECs would have enough time to analyze those responses as part of their work to prepare surrebuttal testimony. We must file that surrebuttal testimony next Monday, December 17.

For the reasons stated above and in our original opposition to Verizon's motion, we respectfully ask the Department to order Verizon to produce its long overdue response to ATT-VZ 4-29 immediately. Thank you.

Very truly yours,

Kenneth W. Salinger

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